IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9233 OF 2005

Mohan Atmaram Vernekar .. Petitioner.
Vs.
Balasaheb Dhondiram Rajput & Anr. .. Respondents.

Mr.A.M.Kulkarni for the petitioner.
Mr.N.V.Walavalkar a/w Mr.G.H.Keluskar for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 11TH JANUARY, 2007

P.C.:

. Heard learned counsel for the parties.

2. This petition under Article 227 of the Constitution of India arises from the orders passed by the courts below on the application filed by the petitioner-tenant for fixation of standard rent. The trial Court fixed the standard rent at the rate of Rs.1500/- per month whereas the appeal court reduced it to Rs.600/- per month to be paid from the date of filing of the application. Mr.Kulkarni, learned counsel for the petitioner assailed the orders passed by the courts below contending that in view of definition of "standard rent" under section 5(11) the standard rent would be the rent at which the premises was first let out. He also placed reliance upon the

agreement dated 20th August, 1985 by which the rent of the premises was fixed at the rate of Rs.50/- per month. He submitted that in any case the landlord has no right to demand more than Rs.50/- per month. He submitted that the landlord by his conduct and by executing the aforesaid agreement waived his right under section 9 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 to increase the rent which he had agreed in the said agreement. In support of his submission he placed reliance upon judgment of the Apex court in **Krishna Bahadur Vs. Purna Theatre and Others (2004) 8 Supreme Court Cases 229**. I perused the judgment and other material placed for my consideration. Admittedly, the old tenement in possession of the petitioner was demolished and new building has been constructed by the landlord. The agreement dated 20th August, 1985 was executed by the landlord who agreed to accomodate the petitioner-tenant in the newly constructed building and agreed to charge rent of Rs.600/- per annum. Despite the agreement, admittedly, the tenant was paying Rs.130/- per month. As a matter of fact the tenant by his conduct waived his right to pay Rs.50/- only as agreed by him vide agreement dated 20.8.1985. There is no dispute that market value of the suit premises is about Rs.One Lakh. Keeping all that in view and considering the rent being paid by other

tenants in the newly constructed building the revisional court for the reasons recorded in paragraphs 12, 15 and 16 rightly fixed standard rent as Rs.600/- per month plus taxes. Similarly I do not find any error in the direction to the petitioner to pay standard rent from the date of filing of the application. In the circumstances this writ petition fails and is dismissed as such.

(D.B.Bhosale, J.)